LEGISLATIVE COUNCIL

Thursday, December 5, 1968

The PRESIDENT (Hon. Sir Lyell McEwin) took the Chair at 2.15 p.m. and read prayers.

ASSENT TO BILLS

His Excellency the Governor, by message, intimated his assent to the following Bills:

Aboriginal Affairs Act Amendment,
Cattle Compensation Act Amendment,
Licensing Act Amendment (No. 2),
Oaths Act Amendment,
Prices Act Amendment,
Stamp Duties Act Amendment (No. 2).

QUESTIONS

EGGS

The Hon. L. R. HART: Has the Minister of Agriculture a reply to a question I asked on November 20 about the price of eggs?

The Hon. C. R. STORY: The South Australian Egg Board has no legislative authority to determine egg prices beyond the wholesale price level nor has it power to fix retail price margins or retail selling prices to the consumer. The Chairman of the board has advised me that the board wrote to the South Australian Retail Storekeepers' Association earlier this year requesting a revision of retail price margins. The storekeepers' association replied that its executive had examined these margins and considered no reduction could be made. He points out that the Auditor-General would not have been aware of this action by the board.

An analysis of the costs of handling, grading and selling has been presented to the board by the grading agents, and the board has decided to have this information investigated and verified by a firm of chartered accountants. When the accountants' report is received, the board will determine what adjustments, if any, in these charges are necessary.

ROAD MAINTENANCE

The Hon. S. C. BEVAN: Has the Minister of Roads and Transport a reply to my recent question about the maintenance of the Sturt Highway?

The Hon. C. M. HILL: The Highways Act provides for the Commissioner of Highways to undertake the maintenance of any road, main or otherwise, and does not specifically give him the responsibility of building and maintaining all main roads. On the contrary, the Act clearly states that it is the duty of councils to maintain all main roads not being those maintained by the Commissioner.

However, bearing in mind that declared main roads are generally the main arterial roads, the Commissioner has assumed responsibility for maintenance of the great majority of sealed main roads. Normally, maintenance is carried out by the Commissioner without any contribution from the council. In certain cases, however, where main roads are widened through townships to provide parking areas adjacent to the through carriageways, the Commissioner may ask a council to bear part of the costs of major maintenance operations, such as resealing, on the parking lanes.

Nothing is known of the report made by the honourable member that the department is notifying district councils that they will be charged the cost of maintenance of main roads. No general action along these lines is contemplated for the Sturt Highway or any other main road. If the honourable member can supply more details of the cases notified to him, the matter can be investigated to determine whether any action taken in a particular location (such as the change of route of a main road) has caused the erroneous general impression.

SCHOOL SUBSIDIES

The Hon. A. F. KNEEBONE: Has the Minister of Local Government obtained from the Minister of Education a reply to my recent question about school subsidies?

The Hon. C. M. HILL: My colleague reports that it is not the intention of the Government to make any changes to the existing policy for the allocation of subsidy funds to schools.

WHEAT PRICE

The Hon. A. M. WHYTE: I seek leave to make a short explanation prior to asking a question of the Minister of Agriculture.

Leave granted.

The Hon. A. M. WHYTE: The price of bread is to rise by 2c a loaf in South Australia. The home consumption price of wheat rose by just over 4c a bushel. Has the Minister of Agriculture any comment to make on the big increase in the price of bread relative to the small increase in the price of wheat?

The Hon. C. R. STORY: I noted that the price of bread was to rise from December 5. There has been an increase in the price that bakers have to pay for flour.

The price of wheat under the old scheme finished up at $1.68, and it is now $1.71. The Prices Commissioner is responsible for fixing the prices of flour and of bran and pollard, and has reduced the price of the latter slightly in order to equalize this matter. The increase in the price of wheat is a small component overall in the increased price of bread, especially when compared with other increases that have taken place in the baking industry.

The Hon. R. A. Geddes: Such as wages and other costs.

The Hon. C. R. STORY: Yes, new awards and things of that nature. The Prices Commissioner periodically conducts a review of the prices of bread and flour, and the trade representatives take part in the discussions, and a fair price for flour is fixed. As a result of increases in flour prices and other considerations in the baking trade, an increase of this nature is dealt with, when sought, by the Prices Commissioner. However, the increase in the price of wheat is a small component in these deliberations.

BUSH FIRE STICKERS

The Hon. R. A. GEDDES: I seek leave to make a short statement prior to asking a question of the Minister of Agriculture.

Leave granted.

The Hon. R. A. GEDDES: I understand that the Bush Fires Research Committee has been responsible for issuing a sign "No Fires in South Australia" which is suitable for sticking on the back windows of motor cars. Can the Minister of Agriculture say whether it is possible for a distribution of these stickers to all members of Parliament so that they can place them on their motor cars?

The Hon. C. R. STORY: True, the committee has been authorized to print this sign. This action was taken as a result of a question asked by the member for Unley in another place, and the suggestion was brought to my notice. I readily acceded to the request. These notices have now been printed and it will give me great pleasure to see that every member of Parliament has one or, if he is fortunate enough to have more than one motor car, two of these stickers to put on his motor cars. The more we can bring to the notice of people the threat of bush fires, the better it will be, and there is no cheaper way to advertise than putting them on car windows.

The PRESIDENT: Following on the Minister's reply, I now advise that these stickers have been supplied to Parliament House and I have approved their distribution to members as soon as possible.

ROAD SEALING

The Hon. Sir NORMAN JUDE: Has the Minister of Roads and Transport a reply to the question I asked a short time ago regarding the use of salt compaction on country roads?

The Hon. C. M. HILL: Both calcium chloride and sodium chloride (which the honourable member will know is salt) are used as a temporary means of stabilizing soils. The former is the most effective as it is hygroscopic; that is, it can take up moisture from the atmosphere. The moisture content of the soil is thus increased and provides greater cohesion between particles. However, in areas of low humidity, such as the northern parts of this State, it is not fully effective as the atmosphere is too dry; that is, there is limited moisture in the air available for absorption. Salt acts somewhat similarly, but is less effective although it does assist in retarding evaporation from soil already wet.

Neither chemical is permanent and, depending on climatic conditions, requires additional applications over relatively short periods. Both are therefore expensive in regard to initial costs, haulage, spreading and mixing. The principal use for either material is for temporary dust suppression at recreation grounds, roads and tracks at sporting meetings or picnics.

Stabilization of soils using salt as an admixture cannot be regarded as an alternative to bitumen surfacing in any way. In fact, common salt, if used on the surface of a road prior to sealing, has a detrimental effect on bitumen, causing powdering and loss of adhesion.

BUSH FIRES

The Hon. M. B. DAWKINS: I seek leave to make a short statement prior to asking a question of the Minister of Agriculture.

Leave granted.

The Hon. M. B. DAWKINS: I have had a telephone call from a constituent of mine representing a number of constituents in a particular area in the foothills, expressing some concern at the high fire risk there when there is a high wind. This gentleman pointed out to me that on some days when no fire ban has been applied quarry personnel have lit fires in that area and have caused fires to start. Also, the gully winds in the foothills create a serious danger, and in some cases it could well be said that when there is a strong wind in the hills there could be a worse fire risk than from a hot day of 100 degrees or more

on the plains in calm weather. Can the Minister say whether his officers will examine this question and take it into consideration when they are issuing fire warnings?

The Hon. C. R. STORY: One of the problems that face the Minister in this question of having fire ban days is that so often we have different circumstances in different parts of the State. In order to create a full fire ban day we must have circumstances which prevail over a very large area of the State: we cannot isolate out a small council or foothills area. I do not know whether the district council or municipality concerned has used all the powers it has under the Local Government Act with regard to the lighting of fires; I am not in possession of those facts. Of course, under the Bush Fires Act councils are empowered to place bans on the lighting of fires. If the honourable member will furnish me with full details of the circumstances, I will certainly have the appropriate authorities look into the situation.

GRAIN CARTAGE

The Hon. A. M. WHYTE: I thank the Minister of Agriculture for his explanation regarding the rise in the price of bread. As a great many people will not be aware of the true situation, I hope that an explanation will appear in the press, whether or not the Minister takes steps to see that this is done. Has the Minister an answer to a question I asked on November 14 regarding grain cartage on Eyre Peninsula?

The Hon. C. R. STORY: In an effort to meet the wishes of the honourable member in this matter, I have obtained from the General Manager of South Australian Co-operative Bulk Handling Limited a comprehensive and lengthy report, which I shall summarize. The General Manager states that it has not been the policy to call tenders for the cartage of grain from off-line silos silo stations to the Thevenard and Port Lincoln terminal silos, as until September of this year the cartage has been arranged with the Eyre Peninsula Road Transport Association, which has as members almost every recognized carrier on Eyre Peninsula.

When that association sought increased rates in August this year for the cartage of bulk grain from off-line silo stations in the Port Lincoln Division for the 1968-69 season, it was requested to reconsider the proposed increases and at the same time other carrying contractors capable of hauling at least 100,000 bushels of grain weekly were invited to submit quotations. Subsequently the association indicated that, except in one case, it reaffirmed the increased rates previously quoted. At a special meeting of the association held about a week later, revised cartage rates for the 1968-69 harvest, which were slightly less than those determined earlier, were approved; but a lower quotation had been received in the meantime from a reliable transport group operating on Eyre Peninsula. Although it appears that public tenders were not called in this instance, the General Manager has pointed out that prices were sought from carriers on Eyre Peninsula and Yorke Peninsula and from a large transport group from Port Adelaide. After considering the prices submitted, the company decided to utilize the services of the Eyre Peninsula carrying organization, which had submitted a satisfactory price for the next two seasons, and, as I have already stated, at rates below those applying last season.

FOOT AND MOUTH DISEASE

The Hon. R. A. GEDDES: Has the Minister of Agriculture a reply to my question of December 3 relating to troops returning from Vietnam being placed in quarantine?

The Hon. C. R. STORY: I have a reply, and I regret that yesterday I was not sure how much I could say on this subject. Two weeks ago, under the strictest security that could be placed on official documents, I was asked to provide two officers from my department to go to Western Australia to meet the *Sydney* on her arrival at Fremantle. I willingly made the officers available because they are, of course, for purposes of this nature also Commonwealth officers for quarantine. The formal reply to the honourable member's question is as follows:

Special quarantine arrangements were made to deal with the important task of ensuring that troops returning from Vietnam would not constitute a quarantine risk. Animal and plant quarantine officers of the Department of Agriculture were flown to Perth together with (human) health and customs officers and they boarded the *Sydney* at Fremantle.

The Acting Director of Agriculture has informed me that detailed quarantine inspection of all gear (boots, clothing, souvenirs, etc.), was carried out on all personnel, both military and naval, and all vehicles, helicopters, etc., were inspected for soiling and insect vectors. Heavy luggage was transported to Woodside and has been inspected since the troops arrived. Special precautions were taken to ensure that no live pets (monkeys, puppies, etc.), were smuggled ashore.

The report of these quarantine officers since their return indicates that Army personnel have conformed most rigidly to standing military

orders on quarantine and only very minor instances were detected which required treatment. Several pairs of boots were retreated and only two or three carved souvenirs required fumigation because of suspicion of borers. The exercise was very effectively carried out and we are satisfied departmentally that the requirements of quarantine were fully observed. Rat guards were provided on the *Sydney* and were used in port; but the risk of rat infestation on service vessels is very low, as no rat-infested cargo is carried in these ships.

DUST NUISANCE

The Hon. JESSIE COOPER: Has the Minister of Local Government a reply to my question of November 20 concerning dust nuisance?

The Hon. C. M. HILL: The Local Government Act by section 783 (2) provides that if any goods, materials, substance, liquid, animal or bird or anything whether of a similar kind or not are conveyed in a vehicle and by reason of the construction or loading of the vehicle, any of these things fall on to a road the owner or driver shall be guilty of an offence and liable to a penalty of up to $40. In addition, the owner or driver is liable to pay the council the cost of removing the material.

AUSTRALIAN FLAG

The Hon. JESSIE COOPER: Has the Minister representing the Minister of Education a reply to my recent question concerning the supply of the Australian Flag to independent schools?

The Hon. C. M. HILL: The Education Department will supply Australian Flags and Union Jacks to State schools upon request. Until 1963, the department also supplied Australian Flags to private schools, the flags being obtained as a free issue under an arrangement with the Commonwealth Government. However, private schools can still obtain Australian flags free by applying to their local member of the House of Representatives or their local Senator, who will arrange supply through the Commonwealth Department of Education and Science.

TATIARA DRAINAGE TRUST ACT AMENDMENT BILL

Read a third time and passed.

INDUSTRIAL CODE AMENDMENT BILL (No. 2)

Read a third time and passed.

POLICE PENSIONS ACT AMENDMENT BILL

Read a third time and passed.

GIFT DUTY BILL

Second reading.

The Hon. R. C. DeGARIS (Chief Secretary): I move:

That this Bill be now read a second time.

The Bill, which was foreshadowed in the Government's Budget proposals in September last, is designed to impose a duty upon all gifts, other than those specifically exempted, where the aggregate of gifts made by a donor within 18 months before and after the making of the gift in question is more than $4,000. The minimum figure of $4,000 is the figure already adopted by the Commonwealth for the purposes of its gift duty and it is accordingly adopted as a matter of convenience both to taxpayers and the administration, even though it is a higher minimum than applies in any other State. The Bill provides for the assessment of all dutiable gifts which have actually been effected on or after September 6, 1968, the day after the Government's intention to legislate for a gift duty was announced. This procedure is a necessary one which in comparable circumstances has been adopted by other Australian Governments and Governments overseas. It will be obvious that, if such a fixed date of operation were not laid down as soon as the intention to legislate was announced, prospective taxpayers could be prejudiced by doubt as to their possible liability in respect of gifts made between the time of announcement and completion of legislation and the prospective revenues could be prejudiced by endeavours to so order the time of intended gifts as to avoid liability for duty.

It was earlier indicated that the rates of gift duty proposed would be in line with the average of the rates presently imposed by the three larger Eastern States. However, after some detailed reconsideration based upon the fact that the Queensland rates are, for most ranges, considerably higher than those of New South Wales and Victoria, and the fact that the rates of Tasmania and Western Australia are more in line with those of New South Wales and Victoria than with those of Queensland, the Government has preferred to adopt a rather lower schedule that is in line with the simple average of the gift duty rates presently applied by the other five Australian States.

I have prepared for the information of members a table showing the rates levied by the Commonwealth and each of the other

States for certain values of gifts over an extensive range, the simple average of those levies by the other five States, and the levy now proposed for South Australia. With the permission of the House, I ask that the table be incorporated in *Hansard* without my reading it.

Leave granted.

AUSTRALIAN GIFT DUTIES—DECEMBER, 1968

Amount of Gift	Commonwealth	N.S.W.	Vic.	Qsld. (*a*)	W. Aust.	Tas.	Average 5 States	S. Aust. as Proposed (*b*)
$	$	$	$	$	$	$	$	$
1,000	—	30	25	5	25	20	21	13
4,000	—	133	140	160	140	130	141	50
7,000	210	280	245	490	245	265	305	305
15,000	450	750	675	1,463	675	700	853	855
25,000	938	1,563	1,375	3,063	1,375	1,400	1,755	1,725
35,000	1,838	2,625	2,275	4,638	2,275	2,400	2,843	2,835
45,000	2,925	3,938	3,375	6,638	3,375	3,600	4,185	4,185
55,000	4,125	5,500	4,675	8,663	4,675	4,900	5,683	5,775
65,000	5,525	7,313	6,175	11,213	6,175	6,300	7,435	7,475
75,000	7,125	9,375	7,875	13,688	7,875	8,000	9,363	9,375
90,000	9,900	12,825	10,350	18,225	10,350	11,000	12,550	12,600
125,000	18,125	23,438	18,125	30,938	18,125	20,500	22,225	21,875
175,000	34,125	42,700	34,125	43,750	34,125	38,000	38,540	38,500
225,000	55,125	60,750	49,500	56,250	49,500	54,000	54,000	54,000
250,000	65,063	67,500	55,000	62,500	55,000	60,000	60,000	60,000
500,000	133,250	135,000	110,000	125,000	110,000	120,000	120,000	120,000
1,000,000	279,000	270,000	220,000	250,000	220,000	240,000	240,000	240,000

(*a*) Includes stamp duty on conveyances varying from ½ per cent to 5 per cent *ad valorem*.

(*b*) includes stamp duty on conveyances varying from 1¼ per cent to 1½ per cent *ad valorem*.

The Hon. R. C. DeGARIS: The various sizes of gift chosen for the table have been selected so as to give as fair an illustration as possible. Whereas in a number of States the rates are varied in a discontinuous manner, the sizes of gifts chosen for illustration have been taken at or near the middle of the relevant ranges so far as possible rather than near the discontinuities.

This Bill is designed to apply gift duty to all non-exempt gifts within the dutiable ranges whether or not those gifts are effected by or evidenced by specific documents. Both the Commonwealth and Queensland Governments apply their gift duties in this manner, whilst the other four States at present levy their gift duties specifically upon the relevant documents. It is known that some other States have under consideration extension to all gifts whether documented or not. New South Wales announced such an intention in its 1967 financial proposals but in December, 1967, decided for a variety of reasons, including the drought, to defer its implementation.

These proposals will allow a rebate from the gift duty otherwise payable of any stamp duty paid upon any document of conveyance effecting or directly evidencing the gift. Such stamp duty upon a conveyance varies from 1¼ per cent *ad valorem* on amounts up to $12,000 and up to 1½ per cent on amounts in excess of $15,000. Moreover, this Bill provides that if the assessed gift duty should be less than $5 no duty will actually be payable. In seeking to impose a gift duty, the Government has made its decision with some reluctance as it has with other taxation measures which it has felt bound to implement. However, revenues must be secured to provide those necessary social services and other public functions that it is the responsibility of the State to provide. This is a duty levied, to a greater or lesser degree, in every other State and the Commonwealth and by most highly developed oversea countries. It is a duty capable of variation in accordance with the generally accepted principles of capacity to pay, and it can be implemented within reasonable ranges without any very serious impact upon the industrial and economic development of the country. Moreover, it serves as a measure to protect the revenues against avoidance of the ordinary succession duties by disposition of property before death in preference to testamentary dispositions.

In this connection it is of interest to observe the extent of gifts recorded in recent years for purposes of Commonwealth gift duty for

South Australia (which has had no gift duty) and for Queensland (which has a full gift duty). Although the population of Queensland is about 54 per cent higher and the aggregate values of property and production in Queensland are to much the same extent higher than those in South Australia, the aggregate of gifts in 1963-64 was about $17,600,000 in South Australia and $9,200,000 in Queensland. In 1964-65 the figures were about $15,200,000 and $10,800,000, in 1965-66 about $15,900,000 and $7,200,000, and in 1966-67 about $15,200,000 and $10,500,000. These figures illustrate clearly the encouragement to prefer gifts to testamentary dispositions in a State that has a Commonwealth but not a State gift duty compared with a State in which there is imposed both a Commonwealth and a State gift duty. Broadly, the figures suggest at least twice the volume of gifts in the one circumstance compared with the other. These considerations, of course, make it extraordinarily difficult to make any reasonably precise forecast of the probable South Australian revenues from gift duties, but it will be apparent that, to the extent that a gift duty in South Australia may deter the making of gifts that would otherwise be made, the relevant revenues will ultimately be received as succession duties.

Following the procedure in the Commonwealth, other States, and elsewhere, the Bill adopts the same schedule of rates for gift duty irrespective of the blood or marital relationship of the donor to the donee. In this the procedure differs from what is normal in succession and estate duties. As may have been expected, a very high proportion of gifts is made to either blood or marital relations, and, whilst some moral considerations may indicate as reasonable the application of rather higher imposts where non-relatives are concerned, the increased revenues to be derived therefrom would be relatively small. Accordingly, in line with practices elsewhere no provision is made for heavier or penal rates where non-relatives are concerned.

In most, if not all, practical circumstances, the rates proposed for gift duty are effectively lower than the corresponding rates for succession duty. For instance, a $15,000 gift will pay duty of 5.7 per cent whereas a succession of $15,000 by a widow or child under 21 years will pay 6 per cent, a succession to a widower or adult child will pay 9.2 per cent, a succession to another blood relation will pay 14.5 per cent and that to a stranger will pay 21.7 per cent. Likewise, a gift of $30,000 will pay 7.5 per cent, and a succession to a widow will pay 10.5 per cent, to a widower or adult child 11.7 per cent, to another relation 16.8 per cent, and to a stranger 24.2 per cent. For a gift of $50,000, the duty will be 9.9 per cent, whilst for a succession to a widow the rate would be 12.8 per cent, for a widower or adult child 13.5 per cent, for another relation 19.1 per cent, and a stranger 26 per cent. For a gift of $100,000, the duty will be 15 per cent whilst a succession to a widow would be 15.2 per cent, to a widower or adult child 15.5 per cent, to another relative 22.1 per cent and to a stranger 28 per cent.

Where the amount is between $4,000 and about $14,000, the rate of duty payable on a gift is rather higher than for a succession of the same amount to a widow, and when the amount is much in excess of $100,000 the rate on a gift is rather greater than for a comparable succession to a widow, widower, or a child of any age. However, it must be borne in mind that it is not usual for a gift, even to a wife, to comprise all the property of a husband. If all the property is to be given rather than bequeathed, but it is given in two or three separate portions at least 18 months apart, the rate of duty on the gifts would be significantly lower than that on a bequest. The pattern of rates for gifts prescribed in this Bill, in relation to the pattern of rates on bequests, follows the same general pattern as for the Commonwealth and other States.

Following the precedent of the Commonwealth, the exemption of gifts from duty covers a significantly wider range than the exemptions provided in the succession duties provisions of the State or in the estate duties and income tax provisions of the Commonwealth. Generally, the exemptions cover the whole range of charities, religious purposes, education, and activities for the benefit of the public generally. They also cover reasonable payments of the nature of wages and salaries beyond what an employer is obliged by law or contract to pay, and which may be on account of retiring or other gratuities, bonuses, sick and invalidity benefits, war service benefits, etc. Exempt also are gifts to a dependant for his reasonable support and education. Subsequently, when dealing with the actual clauses of the Bill, I will explain these in greater detail.

Before turning to a detailed explanation of the Bill, I feel bound to refer to some complexities which it has unfortunately been found necessary to introduce into the legislation.

Where, as in the circumstances with which the Bill is concerned, there may be large sums of money or very valuable properties concerned, it is understandable that the prospective taxpayer will wish, if possible, to find ways and means by which he may accomplish his transaction without the necessity of paying duty, or at least of reducing his duty to a minimum. In as much as such a taxpayer may seek out and find complex and sophisticated methods of accomplishing his purpose, so must the legislation often be equally complex and sophisticated to circumvent him. In protection of Crown revenues and to preserve reasonable equity between one citizen and another, the loopholes for unreasonable avoidance must so far as practicable be closed.

Experience with the existing Commonwealth and State legislation has indicated certain loopholes for avoidance, and methods for closing them have been the subject of much examination. Probably the most fruitful method of avoidance has been through arrangements made by, and by way of, private and family companies, and accordingly some rather complex clauses regarding such companies and personal relationships with them have been found desirable. These, of course, will seldom affect the average citizen and will in no way complicate the affairs of most donors and donees, but will have application only in quite extraordinary cases. In point of fact, the object of these particular provisions is to remove the advantage for a prospective taxpayer in undertaking the procedures involved rather than to deal with them as they occur. They will have most efficiently accomplished their object if they are not, in fact, implemented.

I now turn to an explanation of the detailed provisions of the Bill. Clause 4 deals with the interpretation of a wide variety of relevant terms. There is a special definition of a "controlled company" for the purpose of subsequent sections designed to protect the revenue against avoidance through arrangements made by means of private or controlled companies. What comprises a "disposition of property" for purposes of determining whether a gift has been made is set out extensively, and this clause lists the various abnormal means by which a disposition may be made or may occur. This extends to issue of shares, creation of trusts, grants of leases, licences and rights, release of rights and interests, exercise of power of appointment, and the doing or omission to do anything that may diminish the property of one person and increase that of another. Appropriate definitions are given of "donor", "donee", "gift", "gift duty", "property", "interest in property", etc., in order to give precise meaning to subsequent clauses. A voluntary contract is set out as one entered into without fully adequate consideration in money or money's worth, and this is directly relevant to determining whether a gift has been made.

In subclause (2) of the clause there are detailed and precisely drafted clauses setting out when a "controlled company" is deemed to exist. For that purpose it is laid down under what circumstances a company is a subsidiary company, when the public is considered to be substantially interested in a company, and when a company is deemed to be under the control of not more than five persons. For the public to be substantially interested in a company, the pivotal considerations are that at least 25 per cent of the ordinary shares shall be owned by the public, that the rights to transfer those shares are not restricted, and that they are generally available to be acquired by the public. In determining whether a company is controlled by no more than five persons, it is laid down that where a person is related to, or a nominee or partner of, another person, the two concerned are for these purposes to be considered as one. In subclauses (3) and (4) it is set out extensively what constitutes being related as between one person and another, and this extends to lineal issue and ancestors, collaterally and their lineal issue, as well as the spouses of any of these people and their lineal issue.

Clause 4 (5) sets out the circumstances in which one person is the nominee of another, and this, too, is relevant to the clauses relating to gifts made by way of private or controlled companies. Subclauses (6) and (7) are complementary and lay down that a gift is considered to have been made if the owner of a debt or comparable right should permit the right to lapse in favour of someone else. However, if subsequently the person who gained by virtue of the lapse makes subsequent payment to the original debtor or owner, that subsequent payment is not to be considered as a gift in the other direction. Moreover, it is subsequently provided in clause 25 (3) that, if duty has been paid on the gift deemed to arise from the original lapsing, it shall be refunded if subsequent payment of the debt occurs.

Subclauses (8) and (9) provide that, even though a contract may be void, any payments made thereunder will not be taken to be gifts

if the Commissioner is satisfied that the contract was *bona fide* and not entered into to avoid gift duty. On the other hand, if he is not so satisfied, such a payment could be dutiable as a gift. Clause 4 (10) deals with the time when a disposition takes effect and how the value of the disposition is determined, and provides that in determining the value no allowance shall be made for any contingency which may affect either donor or donee but which in fact has not taken place and may or may not take place.

Subclause (11) deals with the operation of a controlled company, and provides that any action or omission of such a company that diminishes the property of a person in favour of the company or the shareholders of the company shall be regarded as a disposition of property by that person. Subclause (12) likewise sets out that, if a particular person acting through his rights and powers in a controlled company diverts property that could have been his to another person, that diversion of property shall be regarded as a disposition of property and thus be dutiable as a gift. Subclause (13) is complementary to subclause (12), and deals with the case where there may be some consideration for the benefit conferred but not adequate consideration, whilst subclause (14) ensures that the provisions of subclause (12) are not to be read as limiting the manner of disposition of property by a controlled company.

Subclauses (15) and (16) of clause 4 deal with the circumstance where a gift is made by a controlled company but, because the company is not incorporated in this State, it cannot be levied directly for duty. In such case the members of the company are deemed to be the donors rather than the company, and in appropriate proportions. Subclause (17) provides that where a person, without losing the right to recover a debt, does not take steps to recover it when due, this is to be taken as being a gift to the extent of interest on the debt calculated at 5 per cent per annum. Subclause (18) relates to gifts made by two or more persons jointly and apportions such gifts between them. Subclauses (19) and (20) make provision so that a series of actions that may constitute the making of a gift shall not be permitted to result in the same gift being dutiable more than once.

Clause 5 sets out a definition of all relevant gifts for the purposes of determining whether the total value of all relevant gifts is sufficient to bring it within the dutiable range, and also for the purposes of determining the rate of duty applicable to any particular gift. The criterion is the same as for the Commonwealth, that is, all gifts by the one donor (though possibly to more than one donee) for a period 18 months before and after the gift being assessed are brought to account to ascertain whether the $4,000 minimum is exceeded and to indicate the rate of duty.

Part II deals with the administration of the Act, and clause 6 places it under the Commissioner of Succession Duties, whilst clause 7 makes the necessary and usual staffing arrangements. Clause 8 (1) makes the appropriate provisions for secrecy, thereby protecting the rights of individuals against disclosure of their personal affairs. Subclause (2) releases the secrecy provisions to the extent necessary for any court proceedings, and subclause (3) relates to the administration of an oath of secrecy. Subclauses (4) and (5) permit the Commissioner and persons authorized by him to disclose, in the course of their duties, relevant information to any authority of the Commonwealth or another State concerned with any gift that may have come to the notice of the Commissioner. These latter clauses are very important. In the interests of ease of administration and proper protection of revenue, it is desirable that there be the maximum of co-operation and, indeed, common action by the State and Commonwealth departments administering gift duty. The liability to tax will be practically the same for the two departments, though the rates will differ. Moreover, it is ordinarily in the interests of the taxpayer that he should not be concerned with two departments acting independently and duplicating inquiries, valuations and paper work. This would be contrary to the taxpayer's interests only if he had some desire to avoid disclosure. Likewise, co-operation with gift duty administration in other States where there are interstate features is also in the interests of each of the States concerned and ordinarily of the taxpayer himself, particularly in the avoidance of any double taxation. A subsequent provision is made in Part VII relating to double duty rebates.

Part III deals with the liability to duty. It lays down in clause 9 the relevant criteria respecting location of the property concerned and domicile of the parties concerned. Generally a gift is dutiable if the property is situated in the State, whether it be real or personal property. Personal property situated outside the State may be liable if either the donor or donee is domiciled in the State, or

in the case of a corporation if it is incorporated or resident in the State. Special provisions are made in the case of a non-resident controlled company that also carries on business outside the State in order to determine the extent of any gift liable for duty in this State. Clause 10 refers to the Schedule to the Act setting out rates and prescribes how they shall be applied. Clause 11 prescribes that any assessment of gift duty of less than $5 shall not in fact be payable. This provision is to eliminate the necessity for both the taxpayer and the administration to deal with nominal amounts. Clause 11 also makes a concession where a gift is made by the donor to his or her spouse of an interest in the matrimonial home. Where the value of the interest exceeds $4,000 but does not exceed $6,000, the duty on the gift shall be ascertained by deducting from the value of the gift the amount of such interest in excess of $4,000 and, where the value of the interest exceeds $6,000 but does not exceed $8,000, the duty on the gift shall be ascertained by deducting from the value of the gift an amount equal to the difference between $2,000 and the amount by which the value of the gift exceeds $6,000.

Clause 12 makes provision for determining when in fact a disposition of property involving a gift is deemed to have taken place, and makes it clear that if a gift actually takes place after the commencement of the Act, even though the agreement or relevant document may have been completed earlier, it is nevertheless subject to duty. Clause 13 provides that shares in a corporation incorporated in South Australia and those of a corporation incorporated outside South Australia, but recorded in a local share registry, are regarded as property situated in this State. Likewise, where the diminution of the property of a local resident is determined to be a gift, the property involved is considered to be personal property situated in South Australia. The clause also deems property at sea in the course of transit to South Australia to be property situated in South Australia.

Clause 14 specifies the exemptions. Exemptions (*a*), (*b*), (*c*) and (*d*) relate to payments of a variety of benefits from an employer to an employee. They cover contributions towards pensions and retiring allowances, long service and retirement or death gratuities, other reasonable bonuses and gratuities, and reasonable sick and invalid payments. Exemption (*e*) relates to gifts covering a wide range of charitable purposes, including also religious, educational, and other benevolent purposes. Exemption (*f*) is for gifts to the Commonwealth or any State, exemption (*g*) is for gifts for the benefit of the public generally, and exemption (*h*) is for those to local councils. Special provision is made in (*i*) for exemption of minor gifts or gratuities not exceeding $200 which the Commissioner is satisfied are part of the donor's normal expenditure and for gifts to a spouse or dependent children toward their support and education, provided such gifts are not excessive. Exemption (*j*) makes it clear that insurance premiums paid by a person insuring his own life for the benefit of his wife and children shall be exempt to the extent of $200 a year. Supplementary contributions by employers to the pay of their employees serving in the armed forces are also exempted in clause 14 (*k*).

Clause 15 makes it clear that exempt gifts, as well as not being dutiable, are not to be taken into account in determining whether and at what rates duties shall be levied on other gifts. Where some consideration is paid for a disposition of property but that consideration is inadequate, clause 16 lays it down that the value of the gift is the extent of the inadequacy. Clause 17 lays down rules to be observed in valuing gifts. First, it is laid down that any contingency that might possibly affect the interests of the donee shall not be allowed for. Secondly, the value shall be the value at the time of the gift so that, if the value may have increased or have fallen by the time duty is assessed, that will not affect the dutiable value. Thirdly, if the property that is the subject of the gift is the subject of an encumbrance but the donee is not responsible for discharging the encumbrance, this encumbrance is not to be deducted from the value of the gift.

The case of a gift with specific reservations is dealt with in clause 18. This particular provision is to guard against avoidance of duty, or avoidance of the full rate of duty, by dividing a disposition of property into two or more parts, one or more of the parts being withheld by some reservation and later released. It provides that such a later release shall, when it occurs, be counted back to the time of the original disposition so as to determine the rate of duty though, of course, not earlier than the commencement of the Act. Part IV deals with returns and assessments, and clause 19 (1) indicates that returns must relate to gifts over a period of 18 months prior to the time of making of the latest gift, and this applies whether that period of 18 months may

have been partly before the commencement of the Act. Subclause (2) requires returns to be made by both donor and donee if the aggregate of gifts given by the donor exceeds $3,000 or if the aggregate of gifts received by the donee from one donor exceeds $3,000. If the gift is made in Australia, the return must be made within one month and, if made elsewhere, within two months. Subclause (3) requires copies of relevant documents to be furnished with the return and subclause (4) exempts a donee from making a return if the donor has made one. Subclause (5) makes it clear that returns are not required for exempt gifts. Power to require a valuation of property comprising a gift is given in clause 20.

Clause 21 authorizes the Commissioner to adopt a Commonwealth valuation. Clause 22 provides for the valuation of annuities or life interests and comparable benefits to be made in accordance with the provisions of the Succession Duties Act and regulations. The right of the Commissioner to call for further returns is given in clause 23, whilst clauses 24 and 25 authorize the making and amendment of assessments, including the recovery of the further duty or repayment of the excess duty consequent upon amendment of assessment, whether the result of the Commissioner's own action or through objection or appeal. Clause 26 authorizes the Commissioner to make a default assessment when inadequate returns are made, and clause 27 provides for rendering notices of assessment.

Part V deals with the collection and recovery of duty, and clause 28 makes duty due and payable upon the making of the gift or, in the case of a gift made between September 6 last and the assent to the Act, upon the date of the assent. It makes the duty a charge upon the gift property and permits a donee to be called on for duty or his trustee if recovery is not made from the donor. Clause 29 permits the Commissioner to extend the time for payment or to allow payment by instalments, whilst clause 30 provides for penalty interest at 10 per cent per annum for late payment, and allows the Commissioner where appropriate to remit such penalty interest. The Commissioner is authorized by clause 31 to register a charge on land which is concerned in a gift, and clause 32 deals with the enforcement of charges to secure payment of duty. Clause 33 provides that there shall be no limitation of action for recovery of duty.

Part VI of the Bill deals with objections and appeals in the same manner as objections and appeals are dealt with in the Succession Duties Act. In clause 34 the right is given either to lodge an objection against an assessment to the Treasurer or to appeal to the Supreme Court. Where an objection is lodged with the Treasurer, he shall, after seeking an opinion from the Crown Solicitor, decide the objection. Thereupon if still dissatisfied an appeal may be made to the Supreme Court.

Clause 35 provides that a pending objection or appeal shall not interfere with normal recovery. Clause 36 provides for any necessary refund or further recovery after decision upon an objection or appeal.

Part VII is a set of miscellaneous provisions which deal with ordinary recovery procedures (clause 37) and with measures to avoid the imposition of double duty where another State also levies duty upon a gift (clause 38). Clause 39 allows as a rebate any stamp duty on the conveyance paid upon any instrument effecting the disposition or gift, so that a gift made by means of a dutiable instrument would not in total be subject to higher levies than a gift which is not effected or evidenced by a dutiable document. Clause 40 makes normal provisions for the Commissioner to obtain relevant information. Whereas gifts made within 12 months of the death of a donor may be assessed for duty under the Succession Duties Act, provision is made for any gift duty earlier paid on that gift to be taken into account in determining the succession duty payable (clause 41).

Clauses 42, 43 and 44 make provisions for additional duties and other penalties and prosecutions for failure to make returns or supply other information relating to a gift. Clause 45 deals with the offences of making false returns or giving false evidence. Clause 46 is an evidentiary provision. Clause 47 deals with the liability for offences arising out of false declarations and oaths, and clause 48 gives authority for inspection of appropriate books and records.

Clause 49 deals with procedure in relation to proceedings for offences and the recovery of penalties. Clause 50 provides that the incurring of a penalty does not exonerate a person from liability for gift duty. Clause 51 makes normal provisions for valuation of shares. Clause 52 gives the Commissioner power to compromise a claim for gift duty. Clause 53 is a normal regulation-making power, and clause 54 is the usual financial provision. The Schedule is complementary to clauses 5, 9 and 10 of the Bill. I commend the Bill to honourable members.

The Hon. S. C. BEVAN secured the adjournment of the debate.

HARBORS ACT AMENDMENT BILL

Second reading.

The Hon. C. R. STORY (Minister of Agriculture): I move:

That this Bill be now read a second time.

It makes a number of miscellaneous amendments to the Harbors Act, 1936-1967. The Act was extensively amended in 1966 when the Harbors Board was abolished, but unfortunately several errors were then made. Most of the provisions of this Bill are designed to correct those errors. There are, however, two amendments of substance. The first of these arises in consequence of the construction of the jetty at Glenelg. Under the present provisions of the Act, any such structure would be vested in the Minister and he has no statutory power to transfer it to any other body, however desirable that might be. In fact, in the case of the Glenelg jetty, the present proposals are that the jetty should be vested in the council for the district, and consequently the Bill inserts a provision in the Act enabling the Minister to make such a transfer.

The second amendment of substance is the repeal of section 166 of the principal Act. This provision prevents goods from being shipped or unshipped on a Sunday unless a permit is granted. Permits are invariably granted for this purpose whenever they are sought, and the section therefore merely creates administrative difficulties without achieving any positive purpose. The Bill also makes a few amendments that are consequential upon the provisions of the Marine Act Amendment Bill at present before Parliament.

The provisions of the Bill are as follows: Clause 1 is merely formal. Clauses 2 to 5 make drafting amendments to the principal Act. Clause 6 amends section 45 of the principal Act by inserting a subsection empowering the Minister to vest jetties, piers, wharves and certain other structures in a council. Clauses 7 to 9 make drafting amendments to the principal Act. Clause 10 re-enacts section 72 of the principal Act. This re-enactment is also necessary for drafting reasons. Clauses 11 to 17 make drafting amendments to the principal Act. Clauses 18 and 19 re-enact section 114 and section 116 (1) of the principal Act respectively. This re-enactment is consequential upon the Marine Act Amendment Bill at present before Parliament. Section 116 is also amended by striking out the outdated subsection (3).

Clause 20 re-enacts section 117 of the principal Act. This re-enactment is also necessary for drafting reasons. Clause 21 re-enacts subsection (2) of section 121 of the principal Act. This amendment is also consequential upon the Marine Act Amendment Bill. Clauses 22 to 25 make drafting amendments to the principal Act. Clause 26 repeals section 166 of the principal Act. This is the section that requires the grant of a permit when goods are to be shipped or unshipped on a Sunday. Clause 27 makes a drafting amendment, and clause 28 makes decimal currency amendments to the principal Act. I commend the Bill to honourable members.

The Hon. A. F. KNEEBONE secured the adjournment of the debate.

LOTTERY AND GAMING ACT AMENDMENT BILL

The Hon. R. C. DeGARIS (Chief Secretary) obtained leave and introduced a Bill for an Act to amend the Lottery and Gaming Act, 1936-1967. Read a first time.

The Hon. R. C. DeGARIS: I move:

That this Bill be now read a second time.

Before giving the explanation of this Bill I thank the Leader and other members of this Council for giving me the opportunity of introducing it at fairly short notice. The Bill makes one amendment to the Lottery and Gaming Act. The amendment, which is contained in clause 2, amends section 21 of the principal Act to provide that the Commissioner of Police may issue licences for the use of the totalizator at not more than 10 trotting meetings in the aggregate to be held at Globe Derby Park, Bolivar, in the months of June, July and August if none of the meetings is to be held on a Saturday, Wednesday or public holiday. The licences are to be additional to those at present issued. This amendment will protect the interests of country trotting clubs and provide continuity of trotting throughout the year and will provide employment for trotting personnel whose employment at the moment comes to a standstill at about the end of May and does not resume again until September. It will also provide finance for the development of the Globe Derby Park, Bolivar.

The Hon. A. J. SHARD (Leader of the Opposition): I support the Bill. It is exactly in the terms of a similar request that was made to me by the trotting club officials when I was Chief Secretary. It took a little time to work out the principles involved, and by the time a decision was reached it was, unfortunately, too late to introduce a Bill during the

last session when the Labor Government was in office. I think it is in the interests of the South Australian Trotting Club to have continuity of the sport to cater for people whose hobby is trotting. In addition, a number of people are employed in what I might term the trotting industry; it keeps those people in full employment throughout the year. I know it is a new departure to allow trotting to take place almost within the metropolitan area, but the trotting officials have no desire to clash with the racing fraternity, an attitude that I think should be given support. The officials readily agree that trotting should not be held on Wednesday and Saturday afternoons, because those days are traditionally accepted as being set aside for racing; further, they do not wish to have trotting meetings on a public holiday.

I do not think we should ask any more of the trotting people. I had agreed with their officials that if a Labor Government were returned it would introduce amending legislation to give them the opportunity to proceed with their business. I have been told it will take some time for the officials to plan the first meeting. It may appear that this Bill is being hurried through, but if it were delayed and not passed before Christmas, I understand it would not be dealt with before February next year, and that is getting close to the time for the first trotting meeting. I have no objection to the Bill; it is simple and straightforward. I believe trotting people should be encouraged to continue with their meetings rather than have nothing to do for two or three months. I have no objection to the Bill being passed as speedily as possible.

The Hon. Sir NORMAN JUDE (Southern): I agree that there seems to be no reason for holding up this Bill, but I think the Chief Secretary will agree it is being introduced at short notice. Will the Chief Secretary say whether the Act has been altered in the last year or two in regard to changing the venue of races on days of inclement weather or when the condition of the track necessitates it? I seem to recall the Chief Secretary had some problem about altering the venue of meetings from one track to another.

The Hon. A. J. Shard: That was attended to. There are no problems now.

The Hon. Sir NORMAN JUDE: Then I am satisfied. I support the Bill.

Bill read a second time and taken through Committee without amendment. Committee's report adopted.

STAMP DUTIES ACT AMENDMENT BILL (No. 1)

In Committee.

(Continued from December 3. Page 2886.)

Clause 6—"Amendment of Second Schedule to the principal Act"—which the Hon. G. J. Gilfillan had moved to amend by striking out "for rates or any payment made from Government funds" in Exemption 2.

Amendment carried.

The Hon. F. J. POTTER: I move to insert the following new Exemption:

2a. Receipt for any payment made in relation to any agreement for the hire or bailment of goods where the hirer or bailee is a person engaged in the trade or business of selling goods of the same nature or description as the goods to which the agreement relates.

This further exemption relates primarily to wholesale bailment agreements, which are used extensively in the motor trade—first, to provide stock for a distributor or dealer; secondly, as a method of postponing the payment of sales tax payable in respect of the last wholesale sale of a new motor vehicle until it is sold retail; and, thirdly, as a method of stabilizing the amount of sales tax payable on the last wholesale sale of new motor vehicles.

This scheme, which is known as the wholesale bailment agreement scheme, has been approved by the Commonwealth Commissioner of Taxation, who looks to the finance company for payment of sales tax. The procedure is that a subsidiary of a finance company is registered with the Sales Tax Department as a wholesaler, and I make the point that it acquires the new vehicle from the manufacturer, and there will be at that step of the transaction a stamp duty payable on the receipt of the money paid by the manufacturer. It then permits the dealer to place the vehicle on his floor pursuant to the terms of a wholesale bailment agreement. The dealer convenants not to permit the vehicle to be used as such and he has no right of purchase but can only find a person who is prepared to buy the vehicle. This wholesale bailment system is used generally by finance companies to provide used vehicles as stock for dealers. (It is used not only for new but also for used vehicles.) The bailment agreement does not provide usually for any specific charges to be paid to the finance company for the above service of providing the vehicles to the dealer, Such charges are usually assessed depending upon a number of considerations in each particular case.

The following are some of the facts and circumstances that are generally taken into account in fixing the charges ultimately loaded on the dealer: (1) the volume of sales of the dealer; (2) the frequency of those sales; and (3) the number of retail hire-purchase contracts that the finance company obtains from the dealer. My point about these agreements is that they are very common in the motor vehicle trade and it seems to me that, if an exemption along the lines proposed by my amendment is not granted, triple stamp duty will be payable on what is virtually the one transaction. As I have said, where the wholesale finance companies purchase the vehicle from the manufacturer, there the first receipt is given. When the dealer sells the vehicle or finds a buyer for it he receives either cash for it or cash plus money coming from the finance company. In that case there is a second stamp duty payable on the transaction. The dealer will need to give a second lot of stamp duty on the sale of the vehicle. Then, when this is completed, there is a third step in the transaction—when the dealer has to reimburse the finance company that provided him with the vehicle in the first place. So there is a third amount of stamp duty payable by the finance company, and this is really only all in connection with the one item, or it is only on the one turn-around of money.

I understand and appreciate the fact that it may be the policy of the Government to tax each step in this chain. If that is so, we have to accept the fact, but it seems that with the other exemptions we are making in this Bill some consideration should be given to a situation like this where in fact there will be not double but triple stamp duty payable on what is the one turn-around of money. I know it may be thought that this amendment, if carried, will provide a dangerous precedent for other circumstances, but it is limited to the question of the bailment contracts where the bailee or the dealer is engaged in the trade of buying or selling goods of the same name or description.

The Hon. R. C. DeGARIS (Chief Secretary): I am afraid this amendment cannot be accepted. The claim for exemption, because this involves extra transactions that would not occur if the finance companies had not entered into the train of transactions, could not be entertained. The whole basis of the receipts duty is that it is on all receipt transactions, whether there be one, two or many between the original producer and the ultimate buyer. If the duty were to be limited to the one or two transactions in the train of business, the rate of duty would have to be much higher. Ordinarily, it must be assumed that a multiplicity of transactions arises only because that is convenient or profitable for the persons concerned and thus it is not unreasonable to impose this small duty at each step. The suggested exemption by the Hon. Mr. Potter is, in my view, unwarranted and would grant a privilege to hire-purchase companies not generally available. It would produce anomalies and open up avenues of avoidance.

The whole basis of this legislation is that, wherever there is a change of money, receipts duty is payable and the only exemption is where an agent acts for a principal, when there will be only one payment of the duty; but, where there is a situation of the kind explained by the Hon. Mr. Potter, these transactions take place and, if people can show under this legislation that they are acting as an agent would act for a principal, double duty will not be imposed; but, where this is a separate transaction, the duty is payable. For that reason, the Government opposes this amendment.

Amendment negatived.

The Hon. R. C. DeGARIS: I move:

In Exemption 23 to strike out "person or fund" and insert "marketing or equalization board, committee or other body".

The amendment clarifies this exemption in respect of receipts for any money paid to any person or fund under or pursuant to any prescribed marketing scheme.

Amendment carried.

The Hon. R. C. DeGARIS: I move to insert the following new exemption:

30. Receipt for any payment of membership subscription by a member of an association composed or representative of employers as such or of persons who carry on the business of primary production as defined in the Land Tax Act, 1926-1967, where—

(*a*) the Treasurer is satisfied that the sole or principal objects of the association are to further or protect, or to further and protect, the interests of its members;

and

(*b*) the Treasurer has, by notice published in the *Gazette*, which notice he has not subsequently cancelled by a like notice, declared the association to be one to which this exemption applies:

But where the amount of subscription received by the association from any member in any year exceeds fifty dollars, this exemption shall apply and have effect in respect only of the first fifty dollars so received in each year.

This amendment adds to the Bill an exemption from receipt duty on receipts for membership

subscriptions paid to an association of employees or primary producers but limits the exemption to the first $50 received by each association from any member as his subscription in each year. In other words, if a member's subscription in any year exceeds $50 duty is not payable on the first $50 received by the association, but is payable on any amount in excess of $50 in each year. Exemption 29 of the Bill in its present form already exempts receipts of membership subscription made to any trade union composed of employees.

Amendment carried.

The Hon. M. B. DAWKINS: I move to insert the following new exemption:

31. Receipt for any payment by an insurance company to the beneficiary under a policy of insurance on his own life taken out by him with the company where the payment is made under the policy on or after such beneficiary has attained the age of sixty-five years.

The exemption refers to a policy that has been taken out by the beneficiary on his own life. It caters for those people who are in a trade or who have small businesses or small farms or orchards. Such people may not be able to benefit from a superannuation fund so, as an alternative, they have taken out endowment insurance, which will mature when they retire. If superannuation is exempt, receipts in respect of this type of policy should also be exempt.

The Hon. R. C. DeGARIS: This amendment is perfectly reasonable, and the Government is prepared to accept it.

Amendment carried.

The Hon. D. H. L. BANFIELD: It is a pity that the Chief Secretary has not replied to a question I asked during the second reading debate. I asked him what the position was in regard to long service leave but, instead of answering it, he stated that I had said that retailers fleeced the public. I did not say that at all. Because the Chief Secretary did not answer my question I again ask him what the position is in regard to an exemption in respect of payments for long service leave. I notice workmen's compensation payments and superannuation payments are exempt; superannuation and workmen's compensation are dealt with in separate Acts and they are mentioned in this Bill. Because long service leave is dealt with in a separate Act, will the exemption extend to it?

The Hon. R. C. DeGARIS: I am very sorry that the Hon. Mr. Banfield is so thin-skinned about this matter. He did ask me a question, and he has the right to get up and ask me another question while the Committee is dealing with clause 6. I did reply to him privately, when I assured him that long service leave would be in the category of wages and had always been looked upon as such.

Clause as amended passed.

Title passed.

Bill reported with amendments.

Bill recommitted.

Clause 5—"Repeal of sections 82 to 84c and enactment of sections in their place"—reconsidered.

The Hon. F. J. POTTER: I move to strike out subsection (2) of new section 84c and insert in lieu thereof the following subsection:

(2) Where money has been received by a solicitor or agent on behalf of his client or principal, and a duly stamped receipt has been given by such solicitor or agent to the person by whom the payment was made, or the amount of the money so received is required to be included in a statement to be lodged with the Commissioner by the solicitor or agent pursuant to paragraph (*a*) of subsection (1) of section 84f of this Act—

(*a*) any receipt for such money given to the solicitor or agent by his client or principal upon payment of such money to him;

(*b*) any receipt for such money given to the solicitor or agent by any other solicitor or agent who receives such money from him for transmission to the client or principal of the first-mentioned solicitor or agent; and

(*c*) any receipt for such money given by the client or principal of the first-mentioned solicitor or agent to the solicitor or agent who transmits such money to such client or principal shall be exempt from duty.

The proposed new subsection is a redraft of the present provision. The Committee will remember that, when we were dealing with this matter before, an amendment was carried to delete the word "also" because its effect was doubtful. Since then representations have been made to me by a leading Adelaide solicitor claiming that, even with the deletion of that word, the general meaning of the clause is far from clear. Accordingly, I have had the subsection redrafted and submitted it to the Parliamentary Draftsman. I think it is generally agreed that it sets out more clearly the purpose of the provision.

The Hon. R. C. DeGARIS: The Government is prepared to accept the amendment, which does clarify the provision.

Amendment carried.

The Hon. H. K. KEMP: I propose to strike out new subsections (4a) and (4b) and to insert further new subsections (4a) and (4b).

I regret having to take up the Committee's time with this amendment, but it has been made necessary because of the word "if" twice occurring in the photostat copy.

The Hon. R. C. DeGARIS: I congratulate the Hon. Mr. Kemp on the amount of work he has done in this respect, and the amendment is now acceptable to the Government, but I think he should move to delete subsections (4a) and (4b) that have already been inserted, and then insert his proposed new subsections.

The CHAIRMAN: I see no mention in the amendment before the Committee to strike out anything in the Bill to allow this new amendment to be included. If the new amendment is a redraft of a previous amendment that has been passed by the Committee it will be necessary to strike out that previous amendment in order to insert this one in its place.

The Hon. H. K. KEMP moved:

After new section 84c (4) to strike out new subsections (4a) and (4b) and insert the following new subsections:

(4a) No provision of this Act shall be construed as requiring a society to which this subsection applies which has received money in the course of its business, from any of its members, or from the storage, sale, disposal or distribution of any commodity or animal owned by any of its members or acquired by it from or for any of its members, or for resale to any of its members, or from the marketing of any such commodity, whether packed by it or not, or of any product derived from the processing of any commodity owned by any of its members, or acquired by it from or for any of its members, or for resale to any of its members, to pay duty under this Act on the receipt of such money or to include the amount so received in a statement to be lodged by the society with the Commissioner pursuant to paragraph (*a*) of subsection (1) of section 84f of this Act.

(4b) For the purposes of subsection (4a) of this Act—

(*a*) "society" means a society as defined in the Industrial and Provident Societies Act, 1923-1966, as amended—

(a) the members of which are—

(i) persons engaged in the business of primary production as defined in the Land Tax Act, 1936-1967, as amended, or in the fishing industry;

or

(ii) societies defined in the Industrial and Provident Societies Act, 1923-1966, as amended, the members of which are engaged in the business of primary production as so defined or in the fishing industry;

and

(b) the primary object or one of the primary objects of which is—

(i) the sale, disposal or distribution of commodities owned by it or acquired by it from or for any of its members or from or for members of such societies as are members thereof;

or

(ii) the processing, packing or marketing of commodities owned by it or acquired by it from or for any of its members or from or for members of such societies as are members thereof or products derived therefrom;

and

(*b*) a reference to a society to which that subsection applies is a reference to a society as defined in paragraph (*a*) of this subsection in the ordinary course of whose business, commodities and animals owned by any of its members, or acquired by it from or for any of its members, or for resale to any of its members, are stored, sold, disposed of or distributed by it or such commodities or products derived therefrom are packed and marketed where the receipts from the storage, sale, disposal or distribution of such commodities and animals so stored, sold, disposed of or distributed or the amount of its receipts from the marketing of such commodities whether packed by it or not or of any such products derived from the processing of any such commodities of its members is not less, respectively, than 90 per centum of the total value of commodities and animals sold, disposed of or distributed by the society, or of its receipts from the sale, disposal, processing, packing, storing, distribution or marketing of such commodities or products.

Amendment carried; clause as amended passed.

Bill reported with further amendments. Committee's report adopted.

STAMP DUTIES ACT AMENDMENT BILL (No. 3)

Adjourned debate on second reading.

(Continued from December 4. Page 2989.)

The Hon. F. J. POTTER (Central No. 2): Yesterday I started my remarks on this Bill although I was not really prepared at the time to go into much detail on the Bill itself. I have had a further opportunity to examine it. It is obviously a Committee Bill; many aspects of it are different, and each one is a subject in itself. Yesterday I made some remarks concerning aspects of the Bill which on closer examination I discovered had been attended to by the Chief Secretary's amendments, which are now on file. I have given close attention to various aspects of the measure and there are two or three that I would like to refer to

which have caused me some disquiet. First, I will deal with the question of housing loans. The new duty payable under this Bill on all loans bearing interest in excess of 9 per cent does not apply in the case of a housing loan. If a person is lending money for housing loan purposes as defined in the Bill, the new duty does not apply unless that person is in the business of money-lending or granting loans.

I query whether the definition of "housing loan" is really wide enough. Some amendments proposed by the Chief Secretary will improve the Bill considerably. These deal with loans for alterations, renovations and additions to houses. However, housing loans do not cover loans made for other than a house or flat that is to be occupied by the borrower. In addition to houses and flats erected by the borrower, there are other types of dwelling. I am thinking particularly of home units purchased by people for occupation by themselves. Furthermore, houses, flats, units and maisonettes (which seem to be completely overlooked in this definition) are all fields of activity very actively pursued by what have become known as spec builders.

Although this provision allows exemption of housing loans for persons who want to reside in their properties, it does not cover loans made by finance companies on mortgage to spec builders, and for some time many dwellinghouses (particularly home units) have been built by spec builders who are either themselves developers or who purchase blocks of land from developers on which to build their houses and units, and these are invariably financed by finance companies. Also, this is usually done by means of a progressive payment on the security of a loan or mortgage.

We all know that the building trade in South Australia has been for some time past at a particularly low ebb, and I think it can be said that unless the definition of "housing loan" is enlarged somewhat a very heavy impost will be placed upon the cost of houses and may further retard the present unsatisfactory state of the industry. I suggest that this definition of "housing loan" should be further extended to cover not only houses and flats but also home units, and that it should apply also to persons who borrow on the security of mortgage for the purpose of building houses, flats, units or maisonettes, irrespective of whether or not those persons are builders or intending occupiers.

It must be remembered that all loans on real property by mortgage in registrable form are exempt from the 1½ per cent duty currently imposed on money-lenders' loans, so if this enlarged definition were agreed to by the Government the new duty would be payable on loans for the erection of all types of business premises and on dwellings where the proceeds of the loan were to be used for purposes other than those set out in the new section. Therefore, those would not be exempt. I am not suggesting that this should be extended any further than to the building of houses, flats, units or maisonettes, but I think it is unnecessarily restrictive to confine it purely to a loan made to the ultimate occupier of that type of premises.

The other matter that causes me some concern is that, under the definition of "loan", loans at interest not exceeding 9 per cent are exempt. In the Bill, "loan" is defined as "any advance of money; money paid for on account of or on behalf of or at the request of any person . . . but does not include any loan, advance, payment or forbearance or transaction where the interest payable in consideration or in respect thereof is at an annual rate not exceeding 9 per cent or the equivalent thereof." For a long time private finance money has been available for loans for housing, in particular, from estates or from private individuals who have the money to lend out on the security of a mortgage. It has been customary (as everybody in the business world in Adelaide will confirm) to charge 8 per cent interest adjustable annually on these loans, and invariably they are for short periods. If a person has in fact a housing loan or any loan of money for five years at 8 per cent adjustable annually, the effective rate is 9.6 per cent, which is .6 per cent over the rate allowed for the exemption. If a person takes the loan on a four-year basis at 8 per cent interest adjustable annually, the effective annual rate is 10 per cent; and, of course, the shorter the period the higher the effective or real rate of interest.

The trouble I fear is that, under new section 31d, any person who carries on any credit business must be a registered person. We had the benefit of a reply on this matter from the Chief Secretary the other day, so we know about the existing difficulties that apply under the Money-Lenders Act. In the way that Act reads at present, if a person is carrying on business he is in danger of perhaps losing his capital if he is not a registered money-lender. No such provision exists here, but the same type of wording is used. As I say, it is provided that if a person carries on any credit business he must be a registered person, and I point out that if he is not registered he is liable to a penalty of $5,000,

which is a very severe penalty. I am concerned about the widow who has been lending money on normal terms of, say, 8 per cent adjustable annually but who does not realize she should be registered if she continues to do this regularly. If that is the position, such a person may be liable to a penalty of $5,000 and, in addition, that loan may not be exempt from duty. I think this is a matter we should examine in Committee, and I should be pleased to hear from the Minister if he agrees there may be some difficulties in this matter. My view is that one way of curing this (I do not know if this is the only answer) would be to lift the rate from 9 per cent to 10 per cent, as that would cover practically all such cases.

Earlier today I mentioned wholesale bailment transactions, which are also dealt with in this Bill. I will not repeat my earlier remarks, because I think the Minister's reply to my amendment to a previous Bill probably represents his attitude on this matter. I will touch on the matter in the Committee stage. Another matter that disturbs me is the new provision contained in proposed new section 31p prohibiting the passing on to the borrower of duty payable under this Act. I do not see how this will be a useful provision, and I am sure, as I have always said about this type of legislation, that the borrower will ultimately have to pay, and he may pay more in a different way. I support the second reading, but in Committee I will look carefully at some of the provisions.

The Hon. Sir ARTHUR RYMILL (Central No. 2): I intend to move some amendments to the Bill, and they are on honourable members' files. The draftsmanship is simple but the amendments mean a lot. I do not propose to deal with them now because I think they are more matters for the Committee stage, when I will explain them at greater length. However, I should like to take up where the Hon. Mr. Potter left off when dealing with new section 31p relating to the passing on of duty. I think new section 31e might also have some reference to the same matter.

When the increased duty of 1½ per cent was imposed a few years ago on hire-purchase agreements it was provided (and in my opinion it was provided wrongly) that the duty could not be passed on to the hirer. The remedy in the hands of the people who could not pass on that duty was quite simple: namely, to increase interest charges, and that could well result in more than the actual Government levy being passed on to the consumer. I think this kind of thing is quite unrealistic and does not take into account normal business practice.

In 1966 a similar duty was imposed on all money-lenders' contracts other than those in respect of a loan on mortgage over real property. The popular catch cry at that time was that business should absorb these charges, but that was completely unrealistic. If business had attempted to absorb all charges imposed on it even in the last few years without passing such charges on, then I suggest all businesses would now be bankrupt and that business would be at a standstill. Such an attitude is completely unrealistic. The present Bill imposes a tax similar to those I mentioned on all types of credit agreement for the sale of goods, including hire-purchase agreements. It also imposes a tax on all loan and rental business where the interest charged exceeds 9 per cent, except for housing loans as defined. The Bill also provides that the duty charged under it on all classes of transaction covered by it shall not be borne by the borrower, hirer, or purchaser, as the case may be.

In ordinary commercial transactions, except for those rather fanciful Bills we are getting lately, the buyer, lessee or the transferee (and this is the time-honoured practice) always pays the costs of documentation and any fees or duties payable relative to the transaction, including stamp duty. I can see no justification and no logical basis for altering this rule to prohibit the passing on of stamp duty.

The Government has indicated that the duties now to be imposed were to be similar to those imposed in Victoria, and it is interesting to note that in the Victorian Act there is no prohibition on the passing on of duty under the credit or rental business sections. In fact, in all States where this type of duty is already imposed or where a Bill has been introduced to impose it, the lender is permitted to pass on the duty. I cannot see why any exception should be made in this State. I repeat that I consider it completely unrealistic, and the author of this Bill apparently does not seem to understand what goes on in private business. Therefore I suggest, as I hope I have made clear, that proposed new section 31p prohibiting the passing on of duty on this class of finance should be omitted from the Bill.

I mentioned a moment ago that no State where this type of duty was already imposed had such a clause in its Act; I also mentioned

that in States where such legislation was in passage the provision was not included. In this case I am referring to New South Wales, and I am given to understand that the Parliament of that State has a similar measure before it now. It has specifically and completely omitted the clause prohibiting the passing on of duty. As I have said, if finance companies in South Australia cannot pass on the stamp duty then it is obvious they will merely put up their interest rates to have the same effect. Then the ridiculous position would arise that in South Australia people would have to pay more for credit on a loan than would people in other States. I do not think this is good for the State. When he introduced this Bill, the Treasurer said that the prohibition on the passing on of duty would keep basic costs down and that any additional costs should be borne by the consumers—and, I would add, "or borrowers". I repeat that I regard this as an unrealistic attitude and, in my opinion, if it is persisted in it will be much more likely in the nature of things that, if the charge is not passed on directly, it will be passed on in some other way, and probably augmented. I, therefore, propose to urge, when the time is opportune in Committee, that new section 31p be struck out of the Bill. As I have said, I will also move and explain later the other amendments I have on file.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Interpretation."

The Hon. R. C. DeGARIS: Both the Hon. Sir Arthur Rymill and the Hon. Mr. Potter have raised certain matters. As this is a most complex Bill with many amendments on file, I ask that progress be reported.

Progress reported; Committee to sit again.

ELECTORAL DISTRICTS (REDIVISION) BILL

Adjourned debate on second reading.

(Continued from December 3. Page 2895.)

The Hon. A. F. KNEEBONE (Central No. 1): I support this Bill. My Leader has some amendments on file, and I support the Bill with reservations. As a member of this Council, I am greatly concerned about some of the happenings here this session. As an illustration, I refer to the delays that have occurred with some Bills and the undue haste shown in respect of other Bills. Yesterday we heard the Hon. Sir Arthur Rymill attacking the Labor Party and its Leader for doing what is constitutionally permissible—introducing a private member's Bill on a Wednesday, which is private members' day in another place. The honourable member said that the Leader in another place was triggered into action because the Hon. Mr. Rowe had introduced a Bill at about the same time in this Chamber dealing with the same subject matter in a different way. If the honourable member had troubled to make some research into these matters, he would have known that it has been traditional for the Labor Party in every Parliament, for as long back as I can remember, to introduce a Bill in regard to the franchise for this Council. This must have been well known to the Hon. Mr. Rowe, too.

The Bill introduced in another place was introduced on the last day on which a private member's Bill could be introduced, according to Government instructions, in another place, and this was explained in interjections yesterday. I am sure that the Hon. Mr. Rowe would have known this, too, being a member of the Government Party. So I think the boot could have been on the other foot and most likely the position is that the Hon. Mr. Rowe introduced his Bill to try to block the passage of the Bill he knew the Labor Party would introduce. We had a shocking example in this Chamber of Government Orders of the Day being pushed aside on a day that is not traditionally private members' day anyway so that this private member's Bill could be quickly and with undue haste put through. It was only as a result of the efforts of my colleagues and myself that we were able, to some extent, to delay the undue haste exhibited in respect of that Bill. I ask honourable members to compare this with the treatment meted out to private members' Bills handled by members of the Opposition.

The Hon. R. C. DeGaris: Private members' Bills?

The Hon. A. F. KNEEBONE: Private members' Bills handled by members of the Opposition or the Labor Party in this Chamber.

The Hon. R. C. DeGaris: What has that to do with this Bill?

The Hon. A. F. KNEEBONE: I am talking about the undue haste in relation to the Bill.

The Hon. R. C. DeGaris: The undue haste regarding this Bill?

The Hon. A. F. KNEEBONE: This Bill has been delayed repeatedly. It was put aside

yesterday and delayed. We have had one speaker on it each day on many occasions. That is not the way to handle a Bill. As regards this type of Bill, we have been bludgeoned by weight of numbers out of a concession we have had for many years here, where it has been regarded as traditional that private members' business can be dealt with subsequent to Government business on a day when sufficient time is available, provided a private member's Bill has not been adjourned to a specific day. Over two weeks ago a certain Bill was adjourned for a week because the Hon. Sir Arthur Rymill said he wanted time to look at certain legal points, particularly in regard to a referendum. When the week had passed the honourable member apparently was still not ready, because it was a fortnight before he spoke on the Bill. Yesterday he said:

I examined this point long before the matter became a live issue. I have discussed it threadbare over the years with members of the legal profession and also with academics. True, there is a case of New South Wales origin which suggests that an entrenchment of this nature can be binding.

This gives the lie to the reason why an adjournment was sought. It is my opinion the reason for the adjournment was that it was a private member's Bill—of a Labor Party member—not for any other reason. The Government has used its numbers to take this concession away, and this sort of thing is blatant political favouritism.

I agree with my Party's policy in regard to the future of this Council but I am concerned that, as long as this Council exists, its prestige should be held high. In fact, it should be above reproach and above suspicion. We have heard much of this Council's being a House of Review. To illustrate the feelings of people outside, I point out that I recently received a letter from a person who wanted to know whether the word "review" was spelt "revue". I think it is shameful that such a feeling about this Council should exist, and it has been brought about by the actions of honourable members in this Council.

The Hon. L. R. Hart: Not all on the one side.

The Hon. A. F. KNEEBONE: That is a matter of opinion. The questions of democracy and one vote one value have been mentioned. The Hon. Mr. Springett, when debating the questions of one vote one value and the franchise, said that for his part he put more emphasis on "value" than on "vote". That is natural—the honourable member is a member of the Government Party. After all, the Labor Party has over the years repeatedly received the majority of votes in elections for the popular House, yet it has seldom been the Government Party.

The Government's actions in regard to increased charges and taxation indicate that those with few earthly wares do not receive the same consideration from it as do those with more earthly wares. This point can be illustrated by reference to the Succession Duties Act Amendment Bill that the Labor Party introduced some time ago and about which so much has been said. The Labor Party endeavoured to see that the heavier load would fall on those who could afford to pay. What did we hear yesterday in regard to that Bill? It was said that it was reasonable for the then Opposition to reject the Labor Party's Bill and it was said (I think, with the tongue in the cheek) that a succession duties Bill would be supported if it laid the emphasis on an all-round increase, rather than on an increase on a sliding scale that would lay the heavier burden on those with more earthly wares.

We were also told that the system of one vote one value was mathematically impossible to achieve, but there was no argument that such a system was not democratic. Most of the great achievements of mankind over the years have at one time or another been regarded as impossible to achieve but, thank heavens, there are people in Australia who believe that the "impossible" can be achieved. Those people who believe in what they are aiming at eventually achieve their aims. We have been told that certain countries do not have a system of one vote one value or adult franchise, and this was used as an argument that we should not have it, either. That argument, however, is not sound.

I put this question to the Hon. Mr. Springett, who is a medical practitioner: if a mother came to him with a child who had tonsillitis, would he say to the mother, "That is all right. I do not propose to try to cure the tonsillitis because there are hundreds of other children in South Australia who are suffering from tonsillitis"? What kind of argument is that? The Hon. Sir Arthur Rymill has said that, because some countries do not have a system of one vote one value and adult franchise, we should not have it here.

The Hon. R. C. DeGaris: Even your own Bill, which was introduced two years ago, had two districts with no quotas at all.

The Hon. A. F. KNEEBONE: The Hon. Sir Arthur Rymill is a solicitor: what reaction would he get in a court if, when he was representing a prisoner in the dock, he said to the court, "It is quite all right. Because so many other people in the world have done the same thing, do not try to punish him"? That is no argument. Concerning the Chief Secretary's interjection, if one cannot achieve perfection, one should get as close to it as possible, and that is what we tried to do. Although it may not be possible to achieve this, it does not mean that we should not attempt to improve the position, and that is all we ask. One finds, for instance, that the value of the vote in Eyre or Frome is nine times that of the vote in Enfield.

The Hon. R. C. DeGaris: But no-one is supporting it, and no-one has supported it.

The Hon. A. F. KNEEBONE: I do not know so much. There was a great outcry during the last election and, for that matter, during the previous one, and it was apparent that the Labor Party had to get a much greater number of the votes than 50 per cent to enable it to form a Government. This was argued to such an extent that the Liberal and Country League in its conferences had to face up to the people who were arguing against the situation that existed. As a result, the L.C.L. had to move towards something that was fairer. Although I am not an expert, I have been told that it will be possible under this Bill for a country vote to have twice the value of a metropolitan vote. I accept that, because people who seem to know and understand figures better than I do have put that to me.

The Hon. R. C. DeGaris: What do you mean when you say that votes could be worth twice the value?

The Hon. A. J. Shard: Because, in proportion to population, country districts can have up to a 100 per cent difference in the value of a vote as compared with a city vote.

The Hon. R. C. DeGaris: But the value of the vote is still the same: it is one vote.

The Hon. A. J. Shard: No. There could well be districts in the metropolitan area in which two votes will equal only one country vote.

The Hon. A. F. KNEEBONE: I think I have said enough to have conveyed my point to honourable members.

The Hon. R. C. DeGaris: If you said you believed that electoral districts should have equal populations you would make your point, but the value of the vote remains the same.

The Hon. A. F. KNEEBONE: I said we should get as near as possible to having one vote one value.

The Hon. R. C. DeGaris: But the value remains the same.

The Hon. A. F. KNEEBONE: Some members have spoken about the difficulty of country members in serving their constituents. Indeed, the Hon. Mr. Springett referred to this and mentioned people ringing him up, but what about the difficulty a metropolitan member might have in looking after a district consisting of 45,000 people? Is it not as difficult for him to get around and do his work (although his area might be congregated in a small area), as it would be for a member with a big area but with fewer constituents?

The Hon. R. C. DeGaris: That is not the argument.

The Hon. A. F. KNEEBONE: It is the argument that I am putting. Another aspect of the Bill that should be amended is that regarding the definition of the metropolitan area. I can see that in a very few years there will be an unbroken line of development to Gawler yet, according to the Bill, Gawler will not be included in the metropolitan area. True, there has been much development southwards, but surely no-one will say that there will be an unbroken line of development soon from Adelaide to Willunga. These are the features of the Bill that are not consistent.

The Hon. R. C. DeGaris: Willunga is not included in the metropolitan area.

The Hon. A. F. KNEEBONE: It goes as far as Noarlunga.

The Hon. R. C. DeGaris: No, it does not.

The Hon. A. F. KNEEBONE: Although these matters do not satisfy me, I support the Bill.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Interpretation."

The Hon. F. J. POTTER: I have circulated some proposed amendments to this Bill, the first of which relates to clause 3. Honourable members will recall that in the second reading debate I made the point (I hope strongly) that it was wrong to give to an electoral commission the task of dividing the State into 47 new districts for the House of Assembly and to leave the Council boundaries and districts exactly as they are. This would mean that nothing could be done about the existing

areas, which would be superimposed upon a completely foreign electoral division as far as the other House is concerned. Nothing more could be done about the matter until the next session of Parliament because this Bill deals not only with the new electoral districts for the House of Assembly but it also touches briefly in a minor way on the readjustment of the existing Council boundaries.

It is important that we should refer to the commission the task of what is to be done about the Legislative Council. At present there are five Legislative Council districts, three of which are in the country and the other two in the city. The new electoral divisions of the House of Assembly will reverse the situation in the Assembly so that approximately 60 per cent of members will represent the new metropolitan area and 40 per cent the country. The existing Legislative Council boundaries will be totally inappropriate to the new Assembly boundaries. In my view, it will be essential to reorientate our thinking on the matter of the Council boundaries.

In all the speeches that have been delivered in this Council it has been agreed that we should accept the principle of 47 Assembly districts, as set out in the Bill, with a clearly and newly defined metropolitan area and a newly defined country area. We must work on these accepted new areas for this Council as well as for the House of Assembly: it is quite impossible for us to think in terms of any other areas. If we are prepared to accept these areas for the Assembly I think we must accept them for this Council. We are then faced with the problem of how we are going to divide up those two new areas into electoral districts.

The Council districts have always been made up of whole Assembly districts. I see no reason why this should change, and in fact I think there are excellent reasons why the Council districts should be composed in this way. Also, there are very strong reasons for the suggestion that there should be equality of seats between the metropolitan area and the country area. If we agree that there should be equal representation in this Council for country and city, then we must turn to the problem of how this is to be achieved. I suggest in my foreshadowed amendments that it should be achieved by the creation of two districts within the newly-defined metropolitan area. I suggest that the remainder of the State should also be divided into two districts.

Having gone that far, we have to ask ourselves: what will be the membership of these districts? At present we have four members for each district, and if we were to continue with that arrangement this House of Review would be reduced to 16 members, which I think would be quite unacceptable and unsatisfactory. If we increased the number of members for each district to five we would have an inequality of membership within each district, and this would raise considerable problems as to the system of voting and the number of persons to retire at the end of each Parliament. Therefore, a system of five members is unsatisfactory for this particular set-up.

It seems to me that the only alternative is to consider a district in which we shall have six members in the new constitution of the House. This would mean a House of 24 members instead of the existing 20. However, I do not think this is in any way stepping out of line or doing anything that is extraordinary, because for a long time this House has had approximately 50 per cent of the representation in the House of Assembly. Under this new distribution, that House will have 47 members, so it seems to me that there is nothing wrong in extending the existing system to provide for 24 members in the Legislative Council.

I noticed that it was almost the universal rule in bicameral systems throughout the world for the Upper House to have approximately half the number of members of the Lower House. This applies not only where there are elected Houses but also in some cases where there are appointed Houses. I know that is not the situation in the Mother of Parliaments, where a very different system exists. However, in other Legislatures using the bicameral system the Upper House invariably has approximately half as many members as the Lower House. Consequently, I feel that we are in no way breaking new ground in this respect.

These amendments have only just been prepared and circulated to honourable members, and I am sure they will need to be looked at very carefully. I am prepared to move them as a term of reference to the commission, so that we would be sending this instruction to the commission to deal with the Legislative Council boundaries along the lines suggested. I do not know whether these amendments will be completely acceptable to honourable members, but as a basis for redistribution of the Council districts I think they adequately fulfil most of the tests members will wish to apply

to them. I am prepared to move at this stage that clause 3 be amended, but if the Chief Secretary agreed to report progress at this stage it would give all honourable members an opportunity to look at the amendments that have now been placed before them. Before I actually move any of the amendments, I ask the Chief Secretary whether he will report progress for that purpose.

The Hon. R. C. DeGARIS (Chief Secretary): I am quite happy to grant the honourable member's request.

Progress reported; Committee to sit again.

NURSES REGISTRATION ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

ABORIGINAL LANDS TRUST ACT AMENDMENT BILL

Received from the House of Assembly and read a first time.

The Hon. C. M. HILL (Minister of Local Government): I move:

That this Bill be now read a second time.

Its purpose is to make clear the extent of the powers conferred on the Governor by section 16 of the principal Act. The section empowers the Governor to transfer any Crown lands or "any lands for the time being reserved for Aborigines" to the Aboriginal Lands Trust. Last year, a question arose as to the precise extent of this power and the Government was advised that while the provision could be held to have the meaning intended, that is, the one that appears on the face of the Act, it would seem desirable to put the matter beyond doubt and clarify the principal Act. Accordingly clause 2 of the Bill, at paragraph (*a*), sets out the limits of the estate or interest in land that the Governor may, by proclamation, transfer and paragraphs (*b*) and (*c*) are complementary to that provision. Paragraph (*d*) clarifies the duty of the Registrar-General of Titles to give effect to the transfer by the Governor.

The Hon. S. C. BEVAN secured the adjournment of the debate.

EVIDENCE ACT AMENDMENT BILL

Received from the House of Assembly and read a first time.

PASTORAL ACT AMENDMENT BILL

Received from the House of Assembly and read a first time.

SCIENTOLOGY (PROHIBITION) BILL

The Council divided on the third reading:

Ayes (14)—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill (teller), Sir Norman Jude, H. K. Kemp, F. J. Potter, C. D. Rowe, V. G. Springett, C. R. Story, and A. M. Whyte.

Noes (4)—The Hons. D. H. L. Banfield, S. C. Bevan, A. F. Kneebone, and A. J. Shard (teller).

Majority of 10 for the Ayes.

Third reading thus carried.

Bill passed.

ADJOURNMENT

At 5.8 p.m. the Council adjourned until Tuesday, December 10, at 2.15 p.m.